

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-v-

IDIN DALPOUR,

Defendant.

24 Cr. 264 (JPC)

ORDER

JOHN P. CRONAN, United States District Judge:

On April 30, 2024, a federal grand jury returned an indictment charging Defendant Idin Dalpour with wire fraud. Dkt. 1. The Federal Defenders of New York were appointed to represent Defendant at his May 1, 2024 presentment, at which he was released on a \$500,000 secured personal recognizance bond, among other conditions. Dkt. 4.

At Defendant’s arraignment the following day, Federal Defenders appeared on Defendant’s behalf, explained that a financial affidavit had not been prepared because of the “likely limited nature of [their] representation,” and represented that Defendant intended to retain counsel “as quickly as possible.” *See* Dkt. 10 (transcript of May 2, 2024 arraignment) at 2:21-25, 3:3-5, 18:4-7. In light of these representations, the Court allowed Federal Defenders to proceed in their limited representation of Defendant, but clarified that if “counsel is not retained in the near future,” the Court would revisit the need for a financial affidavit. *Id.* at 3:6-8. Also at the arraignment, the Court set a briefing schedule for Defendant’s anticipated motion regarding the Government’s use of Defendant’s cell phone passcode, with the motion due on May 16, 2024, and the Government’s response due two weeks thereafter. *Id.* at 19:5-17.

The deadline to file that motion has elapsed and Defendant has not filed the motion or


requested an extension to do so. More pressingly, to date, no retained counsel has appeared on the docket. Nor has Defendant submitted a financial affidavit. It thus remains unclear whether Defendant wishes for the Federal Defenders to continue in their representation of him and, if so, whether he is eligible for such representation in the first instance.

The Criminal Justice Act (“CJA”) mandates the appointment of counsel “for any person” charged with a felony offense who is “financially unable to obtain adequate representation.” 18 U.S.C. § 3006A(a). Before a judge may appoint counsel under the CJA, the court must conduct an inquiry into whether the defendant is financially unable to obtain counsel. *Id.* § 3006A(b). The burden is on the defendant to show his or her financial eligibility for court-appointed counsel. *United States v. Harris*, 707 F.2d 653, 660 (2d Cir. 1989). In this District, this inquiry typically entails a judge considering financial information provided by the person seeking the appointment of counsel in a sworn affidavit or under oath in open court before a district judge or magistrate judge. *See* Criminal Justice Act Plan for the United States District Court for the Southern District of New York § VI(C) at 6 (June 7, 2023), <https://nysd.uscourts.gov/sites/default/files/2023-06/CJA%20PLAN%20-%202023.pdf>.

Accordingly, the Court orders the parties to appear on Tuesday, May 28, 2024, 3:30 p.m. in Courtroom 12D of 500 Pearl Street, New York, NY 10007. Should Defendant continue to wish to be represented by the Federal Defenders, he should be prepared to submit a sworn financial affidavit at that appearance. Otherwise, he should appear with retained counsel. Defendant should also be prepared to indicate whether he intends to move to preclude the Government from using his cell phone passcode.

SO ORDERED.

Dated: May 20, 2024  
New York, New York

  
JOHN P. CRONAN  
United States District Judge